HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Dated 13th day of June, 2007

W.P.No.23794 of 1999

Between:

Lalam Chinna Alluraiah
and five others ..
Petitioners

And

The Mandal Revenue Officer-cum-
Land Acquisition Officer,
Velugodu Mandal, Kurnool District ..
Respondent

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O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the respondent in not determining the compensation for the petitioners' land of an extent of Ac.29.07 cents in various survey numbers situated in Velugodu village, as arbitrary and illegal, and consequently direct the respondent to determine the compensation payable to the petitioners as covered by the Award No.2/81-82 dated 23.3.1982 pursuant to the Notification, dated 28.4.1979, issued under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") and re-determined by the Subordinate Judge, Atmakur in O.P.No.5035 of 1987 and batch dated 12.12.1990.

The petitioners assert that the respondent, after issuing a Notification, dated 28.4.1979 under Section 4(1) of the Act, acquired their land of an extent of Ac.29.07 cents in various survey numbers situated in Velugodu village, Kurnool District for the purpose of providing house-sites to the families belonging to backward classes. The respondent passed an Award No.2/81-82, dated 23.3.1982 fixing the market value of Rs.3,500/- per acre in respect of the land in question. The petitioners, though received the compensation under protest did not seek reference under Section 18 of the Act to the civil Court for enhancement of compensation. The cases of other awardees which were referred to the civil Court were numbered as O.P.No.5035 of 1987 and batch and the learned Subordinate Judge, Atmakur, by his order dated 12.12.1990, enhanced the compensation from Rs.3,500/- to Rs.26,500/- per acre and granted other statutory benefits. Now, the petitioners' grievance is that when they also made

applications to the respondent on 6.3.1991 with a request to refer their matters to the civil Court for re-determination of compensation, the respondent rejected them on the ground that the appeals preferred by the respondent against the order dated 12.12.1990 passed in O.P.No.5035 of 1987 and batch are pending on the file of this Court. Ultimately, the appeals were dismissed on 16.7.1998. Thereafter, the petitioners again got issued a notice to the respondent on 25.2.1999 requesting him to take immediate action on their applications, but the respondent, though received the notice, has not taken any steps so far for re-determination of the compensation.

The respondent has filed a detailed counter affidavit admitting all the facts, but the only ground urged in it is that after a lapse of more than nine years after the re-determination of compensation by the civil Court, the petitioners are not entitled to the enhanced compensation.

Heard the learned counsel for both the parties.

I do not think the stand taken by the Government in its counter is justified. In fact, it is only keeping this sort of contingency in mind an amendment to the Act was made in the year 1984 and thus Section 28-A of the Act was introduced which deals with re-determination of the amount of compensation on the basis of the award of the Court. The wording that is used under Section 28-A of the Act is “the award of the Court” but not the award of the Land Acquisition Officer. Hence, the judgment, dated 12.12.1990 passed by the competent civil Court shall be construed as an award passed by the Court and the time for application to be made by the aggrieved petitioners is three months. Evidently, in the instant case, the petitioners made applications on 6.3.1991 which is definitely within three months from the date of the order i.e. 12.12.1990 of the civil Court as contemplated under Section 28-A of the Act. In fact, even in the counter it is admitted that the applications were received by the Land Acquisition Officer on 7.3.1991. When once the petitioners sought for re-determination of

compensation within the time stipulated, the Land Acquisition Officer will have no option but to re-determine the compensation on par with those who sought for reference under Section 18 of the Act and whose amount of compensation was enhanced.

In the result, the writ petition is allowed and the Land Acquisition Officer is hereby directed to re-determine the compensation on par with those whose compensation was enhanced by the civil Court in O.P.No.5035 of 1987 and batch on 12.12.1990. No costs.

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13.06.2007

bcj